

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERNEST KONDOR, JR., as Personal
Representative of the Estate of ERNEST
KONDOR, SR.,

Hon.

Plaintiff,

Case No.:

v

HARTLAND OF ALLEN PARK MI, LLC,
D/B/A HARTLAND HEALTH CARE
CENTER-ALLEN PARK, A Delaware
Limited Liability Company,

Defendant.

KEVIN ERNST (P44223)
Attorney for Plaintiff
645 Griswold
Suite 4100
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(313) 965-5555

WILLIAM D. CHAKLOS (P33180)
DAVID C. WIEGEL (P57277)
Attorney for Defendant
One Woodward Avenue
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Detroit, MI 48226-5485
(313) 965-7925

DEAN ELLIOTT (P60608)
Co-Counsel for Plaintiff
500 S. Washington
Suite 5
Royal Oak, Michigan 48067
(248) 543-9000

NOTICE OF REMOVAL BY DEFENDANT

TO: THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NOW COMES the defendant, HEARTLAND OF ALLEN PARK MI, LLC d/b/a
HEARTLAND HEALTH CARE CENTER - ALLEN PARK, a Delaware Limited Liability
Company, by and through its attorneys, KITCH DRUTCHAS WAGNER VALITUTTI &

Kitch Drutchas
Wagner Valitutti &
Sherbrock
ATTORNEYS AND
COUNSELLORS
ONE WOODWARD AVENUE,
SUITE 2400
DETROIT, MICHIGAN
48226-5485

(313) 965-7900

SHERBROOK, and hereby respectfully submits this Notice of Removal for the above-captioned case, and as grounds for removal, states as follows:

1. Plaintiff filed an action in the State of Michigan, Circuit Court for the County of Wayne, against defendant, Heartland of Allen Park MI, doing business as Heartland Health Care Center - Allen Park, a Delaware Limited Liability Company (Complaint, attached hereto as Exhibit A.)

2. That defendant received a copy of said Complaint on March 12, 2009.

3. That this case is accordingly being removed within thirty (30) days after receipt by the defendant of a copy of the initial pleading setting forth the claim for relief.

4. That there are no pleadings, other than the Complaint, and no proceedings have been had in the State Court action.

5. That the above-captioned action is a civil action over which this Court has original jurisdiction under the provisions of Title 28, U.S.C. §1332, and is one which may be removed to this Court by the petitioner, defendant herein, pursuant to the provisions of Title 28, U.S.C. §1441. In particular, it is a civil action and the matter in controversy exceeds or may exceed the sum and value of seventy-five thousand and no/100s (\$75,000.00) dollars, exclusive of costs, attorney fees, and statutory interest, according to the allegations of the injuries and damages in the Complaint. Further, the matter is between citizens of different states. The plaintiff is a resident and citizen of the State of Michigan, according to his Complaint, as of the time of the occurrences alleged in the Complaint and continuing through the filing of this action to the present. The defendant is a Delaware Limited Liability Company with its sole member also a Delaware Limited Liability Company. The subsequent members along the ownership chain are also Delaware LLCs. The end corporate owner, Manor Care, Inc., is a Delaware

corporation. Accordingly, as the citizenship of the defendant is that of a foreign entity, this matter is properly removed by defendant on the basis of diversity jurisdiction.

WHEREFORE, defendant gives notice that this action is therefore removable to this Court pursuant to 28 U.S.C. § 1441 because it is within this Court's original "diversity" jurisdiction, and no defendant properly joined is a citizen of Michigan.

Respectfully submitted,

KITCH DRUTCHAS WAGNER
VALITUTTI & SHERBROOK, P.C.

By: /s/ David C. Wiegel
WILLIAM D. CHAKLOS (P33180)
DAVID C. WIEGEL (P57277)
Attorneys for Defendant
One Woodward Avenue, Suite 2400
Detroit, MI 48226
(313) 965-7415

Dated: April 9, 2009

Kitch Drutchas
Wagner Valitutti &
Sherbrook
ATTORNEYS AND
COUNSELLORS
ONE WOODWARD AVENUE,
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DETROIT, MICHIGAN
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(313) 965-7900

AFFIDAVIT OF COUNSEL

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

The undersigned, being fully duly sworn, deposes and says that he is the attorney for the defendant, that he has read the foregoing Notice of Removal and he knows the contents thereof, and the same is true to the best of his knowledge, information and belief.

[Handwritten signature]

DAVID C. WIEGEL (P57277)
Attorney for Defendant

Subscribed and sworn to before me
this 9th day of April , 2009.

Aileen Bragg
Notary Public

ALISON BRAGG
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Aug 29, 2012
ACTING IN COUNTY OF

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CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: N/A, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Kevin Ernst, Esq., 645 Griswold, Suite 4100, Detroit, Michigan 48226 and Dean Elliott, Esq., 500 S. Washington, Suite 5, Royal Oak, Michigan 48067.

Respectfully submitted,

KITCH DRUTCHAS WAGNER VALITUTTI &
SHERBROOK, P.C.

By: /s/ Alison Bragg Secretary to David C. Wiegel
WILLIAM D. CHAKLOS (P33180)
DAVID C. WIEGEL (P57277)
Attorneys for Defendant
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Dated: April 9, 2009

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